



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[EPA-R02-OAR-2015-0837; FRL-9954-61-Region 2]

Clean Air Act Title V Operating Permit Program Revision;
New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is approving a revision to the New Jersey Operating Permit Program related to the permitting of stationary sources subject to title V of the Clean Air Act (CAA) in the state of New Jersey. The revision consists of amendments to Subchapter 22 of Chapter 27 of Title 7 of the New Jersey Administrative Code, “Operating Permits.” The revision was submitted to change the fee schedule for certain permitting activities for major facilities. The changes provide additional needed fee revenues for New Jersey’s Operating Permit Program. This approval action will help ensure New Jersey properly implements the requirements of title V of the CAA.

DATES: This rule will be effective [Insert date 30 days after date of publication in the Federal Register].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R02-OAR-2015-0837. All documents in the docket are listed on the www.regulations.gov web

site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through www.regulations.gov, or contact the person identified in the "For Further Information Contact" section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Suilin Chan, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4019.

SUPPLEMENTARY INFORMATION:

I. What was included in New Jersey's submittal?

On May 15, 2015, the New Jersey Department of Environmental Protection (NJDEP) requested that the EPA approve revisions to the New Jersey title V Operating Permit Program; the EPA proposed to approve those revisions on June 24, 2016 (81 FR 41283). The revisions consisted of amendments to sections 22.1 and 22.31 of New Jersey's Operating Permits Rule, codified at Title 7 of the New Jersey Administrative Code, Chapter 27, Subchapter 22, that updated the fees paid for certain permitting activities for major facilities, including application fees for significant modifications and fees to authorize general operating permit registration and operation of used oil space heaters. As discussed further in the June 24, 2016 proposed rule, the revisions help NJ raise additional fees to cover its permit program costs, as required by CAA title

V. These revisions were adopted by the State on December 29, 2014, and became effective on February 27, 2015. For a detailed discussion on the content of the relevant revisions to New Jersey's Operating Permits Rule, the reader is referred to the EPA's June 24, 2016 proposed rule and the public docket.

II. What comments did the EPA receive in response to its proposal?

In response to the EPA's June 24, 2016, proposed rulemaking action, the EPA received no comments.

III. What is the EPA's conclusion?

The EPA has evaluated New Jersey's submittal for consistency with the Act, EPA regulations, and EPA policy. The EPA has determined that the revisions to Subchapter 22, New Jersey's Operating Permits Rule meet the requirements of title V of the CAA and its implementing regulations codified at title 40 of the Code of Federal Regulations, part 70. Therefore, the EPA is approving the subject revisions.

IV. Statutory and Executive Order Reviews

This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork

Reduction Act of 1995 (44 U.S.C. 3501 et seq.);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 *note*) because application of those requirements would be inconsistent with the CAA; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the program is not approved to apply in Indian country located in the state, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action which approves the May 15, 2015 program revision submittal by the State of New Jersey as a revision to the New Jersey Operating Permits Program may not be challenged later in proceedings to enforce its requirements. *See* CAA section 307(b)(2).

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control,

Incorporation by reference, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 et seq.

Dated: October 18, 2016.

Judith A. Enck,
Regional Administrator,
Region 2.

Part 70, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 70 – STATE OPERATING PERMIT PROGRAMS

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, et seq.

2. Appendix A to part 70 is amended by adding paragraph (e) in the entry for New Jersey to read as follows:

Appendix A to Part 70 – Approval Status of State and Local Operating Permit Programs

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New Jersey

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(e) The New Jersey Department of Environmental Protection submitted program revisions on May 15, 2015; the revisions related to fees imposed in connection with the permitting of major sources are approved effective [Insert date 30 days after date of publication in the Federal Register].

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[FR Doc. 2016-26017 Filed: 10/27/2016 8:45 am; Publication Date: 10/28/2016]